

## **EXHIBIT 1**

## GROUND LEASE AGREEMENT

THIS GROUND LEASE AGREEMENT is entered into this 15<sup>th</sup> day of April, 1996, by and between the State of Idaho acting through its Department of Employment (hereinafter "Lessor") and TFDOE, Limited Liability Company, (hereinafter "Lessee"), collectively referred to herein as the "Parties."

### WITNESSETH

WHEREAS, Lessor's current office facilities in the Twin Falls area are inadequate;

WHEREAS, Lessor, in furtherance of its role of providing free public employment offices finds it necessary to obtain adequate office facilities in the Twin Falls area through a build to suit lease arrangement;

WHEREAS, Lessor owns real estate suited for locating and constructing such office facilities, and upon which Lessee has agreed to construct such facilities subject to the provisions of the Facilities Lease;

WHEREAS, Lessee has agreed to lease such improvements to Lessor under a separate Facilities Lease, provided that, Lessor grants to Lessee a long term Ground Lease as security for such investment; and

WHEREAS, the parties desire to enter into this Ground Lease defining their respective rights, duties, and obligations with respect to the property and each other.

NOW, THEREFORE, THE PARTIES MUTUALLY AGREE AS FOLLOWS:

1. **Certain Definitions.**

As used in this Ground Lease, the following terms have the following meanings:

- a. Architect: The designer of the project is the architect under contract with the Lessee.
- b. Building: The constructed project - see Improvements definition.
- c. Construction Documents: "Construction Documents" are those written Plans and Specifications prepared by the Architect, for construction of the Improvements which have been approved by the Department of Labor and Industrial Services, the Permanent Building Fund

Advisory Council and the Idaho Department of Employment and are attached hereto as Exhibit "B."

d. Development Loans: A construction or permanent mortgage loan to be made to Lessee by the Key Bank pursuant to its commitment letter.

e. Construction Period: The period of time commencing on the Commencement Date and ending on the date of Completion which is scheduled for October 31, 1996.

f. Commencement Date: The date of execution of the Ground Lease is the commencement of the term of this Ground Lease.

g. Completion: Completion of Construction shall be deemed to have occurred when all of the following conditions shall have been substantially satisfied: (i) the Building (including all amenities) has been substantially completed in accordance with the final Construction Documents, subject to punch-list items; (ii) a temporary certificate of occupancy shall have been obtained; (iii) Lessee shall have acquired and installed all furniture, fixtures, equipment and supplies necessary for the occupancy of the Building; (iv) there shall exist no event of default under any document to which Lessee is a party and which relates to the construction or operation of the Building; and (v) the Building shall have opened for business.

h. Day: Day shall mean as used herein a 24 hour calendar day.

i. Demised Land: The parcel of real property and all easements, rights, privileges and appurtenances relating thereto as described in Exhibit "A."

j. Employment: Employment shall mean the Department of Employment and Executive Department of the State of Idaho established pursuant to Idaho Code § 67-2402.

k. Facilities: Facilities are synonymous with the definition of "Project" herein.

l. Facilities Reserve Account: A separate account to be established with the Idaho State Treasurer by the Facilities Tenant following Completion into which shall be deposited the amount of 2.5% of the amount of the annual lease payments paid under the Facilities Lease. The Facility Reserve Account shall be used by the Department to make repairs or undertake long term maintenance improvements according to the provisions contained in the Facilities Lease.

m. Facilities Lease, Building Lease or Improvements Lease: Are all interchangeable terms and each shall mean that certain Lease Agreement entered into by the Department of Employment and TFDOE, Limited Liability Company for the use and occupancy of the Facilities and the Improvements, executed concurrently with this Ground Lease, attached as Exhibit C.

n. Force Majeure: Any delay due to theft, fire, Act of God or public enemy, severe and unusual weather conditions, injunction, riot, strikes, lockouts, inability to obtain labor or materials, insurrection, war, or court order.

o. Governing Law: The laws of the State of Idaho and all applicable federal and local laws.

p. Hazardous Material or Substance: As used herein hazardous substance or material includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) by any applicable federal, state or local law, regulation, rule or ordinance now or hereafter in effect.

q. Improvements: The buildings, structures, appurtenances and other improvements including, without limitation, all building machinery, equipment, floor coverings, heating, plumbing and air conditioning equipment, and built-in refrigerators, disposals, ranges, ovens, vent-a-hoods, dishwashers and fixtures of the Lessee, which may now or hereafter during the term of the Ground Lease be erected or located on the Demised Land by or on behalf of Lessee; provided, however, that the term "Improvements" shall specifically exclude non-fixtured "Personal Property."

r. Insurance Requirements: All terms of any insurance policy or loss retention group covering or applicable to the Premises or any part thereof, all requirements of the issuer of any such policy, and all orders, rules and regulations of the National Board of Fire Underwriters applicable to or materially affecting the Premises or any part thereof.

s. Legal Requirements: All laws, statutes, codes, ordinances, orders, judgments, decrees, injunctions, rules, regulations, permits or licenses which now or at any time hereafter may be materially applicable to the Premises or any part thereof, or any of the adjoining sidewalks, streets or ways or any material use or condition of the Premises or any part thereof.

- t. Permitted Mortgage: As defined in Section 15.01.
- u. Plans and Specifications: Specifications are synonymous with "Construction Documents."
- v. Proof of Financing: That certain Letter of Commitment issued by Key Bank to Lessee on or before March 11, 1996, which letter commits the Bank to lend funds in an amount sufficient to construct the Project.
- w. Project or Work: "Project" or "Work" shall mean all buildings and appurtenances constructed as described in the Construction Documents.
- x. Premises: The Demised Land and the Improvements as described in Section 2 hereof. Also known as Leased Premises.

**2. Demised Land:**

Lessor leases and demises to Lessee, subject to the conditions expressed herein, certain land, located in Twin Falls, Idaho, which is fully described in Exhibit "A" and all easements, rights, privileges, and appurtenances relating thereto (the "Demised Land"). The Improvements which will be subject to the terms of this Ground Lease, shall be constructed by Lessee according to the Facilities Lease. The Demised Land and Improvements are herein referenced to collectively as the "Premises."

**3. Term:**

Subject to the terms, covenants and conditions herein, Lessee shall have and hold the Demised Land for a term commencing on the Commencement Date for a period of thirty-five years. Lessee shall have the right upon execution of this Ground Lease and payment to Lessor of the sum of One Dollar (\$1) to enter upon and construct certain improvements described in the Construction Documents prepared by Architect. The term of this Ground Lease may end earlier should Lessor exercise its right of first refusal as Tenant as described in the Facilities Lease.

**4. Rent:**

Rent for the Demised Land shall be One Dollar (\$1) and paid on the date of execution of this Ground Lease. The parties mutually recognize other good and valuable consideration exists in the form of a reduced lease rate to the state, and as otherwise agreed under the terms of the

Facilities Lease. In the event the Facilities Lease is terminated early or not renewed by Tenant for its full potential term of thirty-five (35) years, then the Lessee under this Ground Lease shall pay into the Facility Reserve Account, Rent in the amount of 2.5% of the annual lease payment(s) or payments received by Lessee herein from new Tenant(s) of the Facilities.

**5. Title and Condition:**

The Demised Land is demised and let subject to the rights of any parties in possession thereof and the state of the title thereof as of the commencement of the Ground Lease, to any state of facts which an accurate survey or physical inspection thereof might show, and to all zoning regulations, restrictions, easements, rules and ordinances, building restrictions and other laws and regulations now in effect or hereafter adopted by any governmental authority having jurisdiction and to the existing encumbrances, if any. Lessee has examined the title to the Demised Land and has found the same satisfactory.

**6. Use of Demised Land and Premises:**

Lessee is granted the right to occupy and use the Demised Land only for the construction, development and operation of the Project (an Office Building, the "Building") to be built substantially in accordance with Plans and Specifications (Exhibit B) heretofore approved by Lessor, and for any other lawful purpose approved by Lessor, which approval shall not be unreasonably withheld. Lessee will not do or permit any act or thing which is contrary to any Legal Requirement or Insurance Requirement, or which might impair the value or usefulness of the Premises or any part thereof, or which constitutes a public or private nuisance or waste.

Construction of the Improvements shall commence at the earliest time in accordance with the provisions of the concurrently executed Facilities Lease.

**7. Improvements:**

(a) Title to the Improvements located and/or to be located on the Demised Land as of the date of this Ground Lease has not been conveyed to the Lessor, and such Improvements are now and shall remain the property of the Lessee, subject nevertheless to the terms and conditions of this Ground Lease, until the expiration of the term of this Ground Lease or the earlier termination thereof. All Improvements hereafter erected or located on the Demised Land

by or on behalf of the Lessee pursuant to Section 9 of this Ground Lease shall also remain the property of the Lessee, subject to the terms and conditions of this Ground Lease, until said expiration or earlier termination.

(b) Upon the expiration or earlier termination of the term of this Ground Lease, all improvements then located on the Demised Land shall, with the Demised Land, be vacated and surrendered by the Lessee to the Lessor and shall become the property of the Lessor, upon payment of one dollar (\$1.00) and the Lessee agrees to execute and deliver to the Lessor such quit claim deeds, assignments or other instruments of conveyance as the Lessor may deem reasonably necessary to evidence such transfer of title to the Lessor.

**8. Easements:**

At Lessee's request or as may be reasonably required, Lessor shall grant to public entities or public service corporations, for the purpose of serving the Premises only, rights of way or easements on or over the Premises owned by Lessor for poles or conduits or both for telephone, electricity, water, sanitary or storm sewers or both, and for other utilities and municipal or special district services. Grants made under the authority of this provision shall be consistent with existing services.

**9. Construction, Alterations and Additions:**

Lessee shall expeditiously commence, or cause to be commenced in accordance with the schedule, the construction of the Improvements, (an office building) in accordance with the Construction Documents heretofore approved by Lessee and the Lessor. Lessee shall cause Completion as expeditiously as possible, in a good and workmanlike manner, and in substantial conformity with the Construction Documents, the requirements of the Construction Loan, the commitment for the Permanent Loan and all applicable covenants and restrictions, laws, ordinances and regulations.

Lessee shall have the right to make, at its sole cost and expense, additions, alterations and changes ("Alterations") in or to the Premises, provided Lessee shall not then be in default in the performance of any of the Lessee's covenants or agreements in this Ground Lease, subject, however, in all cases to the following:

a. No Alterations of any kind shall be made without the prior written consent of Lessor if such Alterations would tend (i) to change the general character or structure of the Improvements on the Demised Land, or (ii) to reduce or impair the value, rental, rental value, rentability or usefulness of the Premises or any part thereof.

b. No Alterations shall be undertaken until Lessee shall have procured and paid for, so far as the same may be required from time to time, all permits and authorizations of all municipal departments and governmental subdivisions having jurisdiction, and complied with all other Legal Requirements relating to the Alterations;

c. Any structural Alterations involving in the aggregate an estimated cost of more than \$25,000 shall be conducted under the supervision of an architect, Lessor or engineer selected by Lessee and approved in writing by Lessor (which approval shall not be unreasonably withheld), and no such structural Alterations shall be made, except in accordance with detailed plans and specifications and cost estimates prepared and approved in writing by such architect or engineer and approved in writing by the Lessor (which approval shall not be unreasonably withheld);

d. Any Alterations shall be made promptly (causes due to Force Majeure excepted) and in a good and workerlike manner and in compliance with all applicable Legal Requirements and Insurance Requirements;

e. The cost of any such Alterations shall be paid in cash or its equivalent, so that the labor and materials supplied or claimed to have been supplied to the Premises are paid;

f. Lessee shall obtain worker's compensation insurance covering all persons employed in connection with the work and with respect whom death or bodily injury claims could be asserted against Lessor, Lessee or the Premises, and general liability insurance for the mutual benefit of the Lessor and Lessee with limits of not less than \$500,000 in the event of permanent damage, bodily injury or death to one person and not less than \$2,000,000 in the event of bodily injury or death to any number of persons in any one accident, and with limits of not less than \$2,000,000 damages or injury to property with not more than \$10,000 deductible, shall be maintained by Lessee at Lessee's sole cost and expense at all times when any substantial work is



in progress in connection with any Alterations. All such insurance, if readily obtainable, shall be effected under standard form policies issued by insurers of recognized responsibility, which are well rated by national rating organizations. Any coverage provided by Lessee shall be primary to and not contributory with any insurance maintained by Lessor and shall not be canceled prior to the conclusion of this Ground Lease.

**10. Insurance After Construction:**

After the Improvements have been constructed and written notice of substantial completion is delivered to the Parties, Lessee shall, during the Lease Term, of this Ground Lease, with responsible insurers, at Lessee's sole expense, procure and maintain the following insurance coverages:

(a) Fire and extended coverage insurance in an amount equal to at least one hundred percent (100%) of the full replacement cost of the Improvements.

(b) Comprehensive general liability insurance for all accidents occurring on the Premises in an amount set forth in Section 9.

(c) Worker's compensation insurance for any and all employees and staff of Lessee, insuring against claims under the Idaho Worker's Compensation Act.

(d) The insurance policies mentioned above as being the responsibility of Lessee shall not be subject to cancellation except upon at least thirty (30) days prior written notice to Lessor. If Lessee fails to comply with any insurance requirements, Lessor may obtain insurance and keep it in effect, and upon demand Lessee shall pay Lessor its cost of procuring said insurance.

Lessor may during the term of this Ground Lease, at its sole expense, provide either a comprehensive self-insured liability program sufficient to comply with the Idaho Tort Claims Act or provide and keep in force comprehensive and general liability insurance for all accidents or liability occurring on Lessor's Premises which insurance shall not be considered contributory.

**11. Casualty:**

In the event that the Premises shall be damaged or destroyed during the term of this Ground Lease by fire or any other casualty, Lessee may, at Lessee's sole option, and expense elect to continue this Ground Lease in effect and shall cause the damaged portion of the Premises to be

repaired and restored to substantially the same condition which existed before any fire or other casualty. Should Lessee exercise Lessee's option to continue the Ground Lease and to restore the Premises, Lessee shall be entitled to apply all or any portion of insurance proceeds towards repair and restoration and shall proceed with due diligence to restore and reconstruct the facilities and improvements.

In the event that Lessee does not exercise Lessee's option to continue the Ground Lease upon the occurrence of damage to or destruction of the Premises by fire or other casualty then Lessee may, at Lessee's sole option, declare the Ground Lease terminated. In such event, all obligations to pay rent and perform other covenants of this Ground Lease shall terminate and Lessee shall surrender possession of the Premises to Lessor. In the event of termination of the Ground Lease after any fire or casualty loss, all insurance proceeds payable with respect to such loss, shall be applied first in repayment of the balance of the amount payable for the construction loan or permanent financing loan for the construction of the Improvements, second to Lessor to the extent of the cost of demolition of the remaining improvements and restoration of the real property to the condition existing as of the commencement of this Ground Lease, with the balance of insurance proceeds, if any, to be divided by Lessee and Lessor on a prorated basis based upon the respective interest of the Parties as agreed to by the Parties, or if no such agreement, then as determined by an appraisal.

**12. Eminent Domain.**

a. Definition of Taking. If the Premises are acquired or damaged by the exercise of the right of eminent domain or conveyed in lieu thereof, by the change of grade of adjacent streets or other activity by a public authority, whether or not such damage involves a physical taking of any portion of the Premises, this shall be considered a taking. If the extent of the taking is such that the Premises are no longer suitable for the purposes of the tenancy, this shall be considered a total taking. Any other taking shall be considered a partial taking.

b. Total Taking. In the case of a total taking, this Ground Lease shall terminate at the date the Premises are rendered unsuitable for the purposes of the tenancy and all compensation therefore whether fixed by agreement or judicial award shall belong to the Lessor

except those portions of the award that are specifically allocated as compensation for actual expenses incurred by the Lessee for moving the Lessee's leasehold improvements, fixtures, stock in trade, business interruption, inventory, equipment, and personalty. The sharing of any condemnation award will be according to the respective interests of the Parties as determined by the condemnation appraisal.

c. Partial Taking. In case of a partial taking and if this Ground Lease is not terminated, Lessee shall repair the Premises in accordance with plans and specifications reasonably approved by Lessee and Lessor, and neither Lessor nor Lessee shall be obligated to expend for such repairs an amount greater than the compensation received from the condemning authority. In the case of any partial taking, all compensation paid by the condemning authority in connection with the taking, whether fixed by agreement or judicial award, shall be paid to the Lessee and Lessor as co-payees, and if this Ground Lease is not terminated as of above-provided, such award shall be utilized by the parties hereto for the purpose of making repairs necessitated by the taking. There shall be no reduction or abatement of rent as a consequence of such taking.

**13. Termination and Removal of Property.**

Subject to the Facilities Lease, upon the expiration of the term of this Ground Lease, the Improvements and all alterations, facilities, replacements and appurtenances on or to the Premises shall become the sole and absolute property of Lessor lien free and shall be deemed to be part of the Demised Land; provided, however, that all personal property installed in or affixed to the Premises shall remain the property of Lessee if purchased by and for Lessee and may be removed at any time. Lessee shall be responsible for the reasonable repair of damage caused to the Facilities by removal of equipment or personal property affixed to the walls, floor, ceiling or other part of the Facilities in such a manner that their installation or removal results in damage to the Facilities.

**14. Liens.**

Except as hereinafter provided, Lessee shall not permit any mechanic's, materialmen's, or other lien or security interest to attach to the Premises. In the event that any such mechanic's, materialmen's, or other liens or security interests are filed against the Premises by reasons of

actions of Lessee, Lessee shall cause all such liens to be discharged by payment, bond, or otherwise within thirty (30) calendar days after Lessee may have knowledge or receive notice of the filing of such liens or security interests.

**15. Mortgages.**

**15.01 Mortgage (Deed of Trust) Allowed.**

Subject to the Facilities Lease, Lessee shall have the right at any time and from time to time to subject the leasehold estate and any or all Improvements to one or more mortgages or deeds of trust (herein referred to as "Mortgages"), as security for a loan or loans for construction of Improvements provided that:

(a) The Mortgage and all rights required under it shall be subject to each and all of the covenants, conditions, and restrictions stated in this Ground Lease and in addition subject to all rights and interests of Lessor except as otherwise provided in this Ground Lease.

(b) Lessee shall give Lessor prior notice of any such Mortgage, and shall accompany the notice with a true copy of the note and Mortgage.

**15.02 Effect of Lessee Default of Mortgage.**

If Lessee defaults under the terms of any permitted Mortgage, and the Mortgagee acquires Lessee's leasehold estate, whether by exercising its power of sale, by judicial foreclosure, or by an assignment in lieu of foreclosure or of exercise of power of sale, Lessor agrees to waive obligations of Lessee herein contained following the Mortgagee's acquisition, for such period of time as it takes Mortgagee to secure a new Lessee of the Premises meeting all the qualifications of a permitted assignee as provided herein to assume the obligations of Lessee herein, conditioned on the following:

(a) Payments of all taxes, assessments, and insurance premiums required by this Ground Lease to be paid by Lessee are current, or are brought current by Mortgagee, and are kept current by Mortgagee;

(b) Payments of all utility charges and assessments required to be paid by Lessee are current, or are brought current by Mortgagee, and are kept current by Mortgagee;

(c) The Mortgagee performs all Lessee's obligations, if any, for maintaining the Premises and improvements in good order and repair.

(d) After acquiring Lessee's rights by foreclosure, the Mortgagee shall be liable to perform Lessee's obligations only as above provided and only until the Mortgagee assigns or transfers the leasehold as permitted by this Ground Lease. Lessor shall be required to serve a copy of any notice of default under this Ground Lease on the Mortgagee. The Mortgagee shall have thirty (30) calendar days after service of notice of default within which, at Mortgagee's election, either:

(1) To cure the default if it can be cured by the payment or expenditure of money; or

(2) If Mortgagee does not elect to cure by the payment or expenditure of money, or if the default cannot be so cured, to cause the prompt initiation of foreclosure, or other remedies available to the Mortgagee under the terms of the Mortgage instruments, to prosecute it diligently to conclusion, and to perform and comply with all other covenants and conditions of this Ground Lease requiring the payment or expenditure of money by Lessee until the leasehold estate shall be released or reconveyed from the effect of the Mortgage or until it shall be transferred to, or assigned pursuant to or in lieu of foreclosure.

15.03 Lessor's Right to Cure Lessee Mortgage Default.

Lessor shall have the right, but not the obligation, to make any payment falling due with respect to Lessee's financing for any improvements on the Premises. Lessee shall cause the lender to execute all documentation facilitative of this right. Lessor's exercise of this right shall not constitute a waiver of any other right Lessor may have against Lessee, any surety or guarantor, or anyone else. In no event shall Lessor's right of occupancy, pursuant to the terms contained in Exhibit C ("Facilities Lease Agreement") be disturbed due to Lessee's default of this Ground Lease.

Only the Permitted Mortgage allowed by Section 15.01 is authorized, in no event shall the demised land upon which the Facility is built be otherwise encumbered by Lessee.

**16. Indemnification.**

Lessee shall indemnify the State and hold it harmless from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses (collectively "losses") caused or incurred by the intentional act, negligence or omission of Lessee, its servants, agents, employees, guests and business invitees arising from the performance of this Ground Lease, and not caused by or arising out of the intentional or negligent conduct of the State or its employees. Likewise, the State shall indemnify Lessee and hold it harmless to the extent provided by the Idaho Tort Claims Act, from and for any and all losses caused or incurred by the wrongful omission or negligent act of the State, its servants, agents, employees, guests and business invitees while acting within the scope of their office or employment, and not caused by or arising out of the omission, intentional or negligent conduct of Lessee or its employees. For purposes of this Section, such losses include, without limitation those caused by any spill, disposal, discharge, or release of any hazardous material into, upon, from, or over that Premises.

**17. Compliance with Laws and Regulations.**

Lessee shall, at its own cost and expense, promptly comply with, or cause to be complied with, all laws and ordinances, rules, regulations and other applicable governmental requirements, whether or not the same require structural repairs or alterations, which may be applicable to Lessee, the Facility or the use of or manner of use of the Facility. This provision specifically includes Lessee's obligation to comply with all statutes, rules and regulations regarding the handling, storage and disposal of any hazards or regulated substance or Hazardous Materials used by Lessee on the Leased Premises. Lessee shall also observe and comply with the requirements of all policies and arrangements of insurance at any time in force with respect to the Premises.

**18. Hazardous/Materials.**

Subject to Facilities Lease, Lessee shall not accumulate, use, or store on the Leased Premises Hazardous Materials classified as hazardous, biomedical or toxic waste except as in compliance with all state, federal, or local laws, rules or regulations. Lessee shall comply with any lawful order by an entity reposed with authority to regulate the use, accumulation, storage or disposal of hazardous waste.

**19. Zoning/Building Restrictions.**

It is understood and agreed that this Ground Lease is subject to all applicable zoning ordinances and restrictions and all limitations of record, and is subject to any and all easements for public utilities which may be of record. If there are any such restrictions which make construction of the Facility unfeasible in the opinion of the Parties, the Parties may mutually terminate this Ground Lease. All construction, parking, or signage shall conform to any applicable zoning or building regulations.

**20. Waste and Nuisance Prohibited.**

Lessee shall comply during the term of this Ground Lease with all applicable laws affecting the Premises the breach of which might result in any penalty assessed on Lessor or forfeiture of Lessor's title to the Premises. Lessee shall not commit, or suffer to be committed, any waste on the Premises, or any nuisance.

**21. Remedies and Forbearance/Waivers.**

No delay or omission on the part of Lessor or Lessee to exercise any right or power granted herein shall impair any such right or power nor shall be construed as a waiver thereof, and every such right or power may nevertheless be exercised.

**22. Officials, Agents, and Employees Not Personally Liable.**

It is agreed by and between the Parties hereto that in no event shall any official, officer, employee or agency of Lessor, or State of Idaho be in any way liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement, representation or warranty made herein or in any way connected with this Ground Lease Agreement. In particular, and without limitation of the foregoing, no full-time or part-time agent or employee of Lessor shall have any personal liability or responsibility hereunder, and the sole responsibility and liability for the performance of this Ground Lease and all of the provisions and covenants herein contained pertaining to the Lessor shall rest in and be vested with the Department of Employment.

**23. Quiet Enjoyment.**

Lessor covenants that Lessee shall, upon Lessee's compliance with the covenants and conditions herein, have peaceful and quiet enjoyment of the Premises above-described for the term of the Ground Lease.

**24. Lessor's Right of Entry.**

Lessee shall permit Lessor and the agents and employees of Lessor to enter into and upon the Premises at all reasonable times for the purpose of inspecting the same, or for the purpose of posting notices of nonresponsibility for alterations, additions, or repairs, without any rebate of rent and without any liability to Lessee for any loss of occupation or quiet enjoyment of the Premises thereby occasioned. Provided, however, that Lessor gives twenty four (24) hours written notice of its desire to inspect the Premises and is accompanied by a designated representative of Lessee or Lessee's tenant on said inspection.

**25. Impossibility.**

In the event that any construction of law, ordinance, regulation, zoning change or other governmental or administrative rule or restriction exist or hereafter be enacted that would prohibit Lessee from constructing upon the Premises the Improvements as contemplated herein, or otherwise make it impossible for Lessee to carry out the purposes of this Ground Lease, Lessee shall notify the Lessor in writing of Lessee's intent to terminate this Ground Lease and all obligations hereunder to pay rent or to perform any of the covenants or conditions of this Ground Lease shall cease except the obligation to indemnify Lessor.

In the event of the reasons, occurrences or causes set forth above in this section which prevent Lessor from carrying out the purposes of this Ground Lease, Lessor shall notify Lessee in writing of Lessee's intent to terminate this Ground Lease and all obligations hereunder shall cease.

**26. Default.**

In the event of any breach of this Ground Lease by Lessee, Lessor, in addition to the other rights or remedies it may have, shall have the immediate right of re-entry and may remove all persons and property from the Premises; such property may be removed and stored in a public warehouse or elsewhere at the cost of, and for the account of Lessee. Should Lessor elect to re-



enter, as herein provided, or should it take possession pursuant to legal proceedings or pursuant to any notice provided for by law, the Ground Lease shall be deemed terminated. Lessee shall not be deemed to be in default hereunder unless Lessor shall first give to Lessee thirty (30) calendar days written notice of such default, and Lessee fails to cure such default within such thirty (30) calendar day period, or, if the default is of such a nature that it cannot be cured within thirty (30) calendar days, Lessee fails to commence to cure such default within such period of thirty (30) calendar days or fails thereafter to proceed to the curing of such default with all reasonable diligence. In the event of any default on the part of Lessee, and within ten (10) days of default, Lessor will give notice by registered or certified mail or by facsimile transmission to any mortgagee whose address shall be furnished to Lessor, and shall offer the mortgagee an opportunity to cure or to commence to cure the default within fifteen (15) days after notice from Lessor, provided that such cure period shall be extended to include the time for the mortgagee to obtain possession of the Demised Premises by power of sale or judicial foreclosure, if such should prove necessary to effect a cure. In the event of a default or breach of this Ground Lease by Lessor, Lessee shall have all rights and remedies provided by law.

**27. Assignment, Mortgage, Subletting.**

(a) If this Ground Lease be assigned, Lessor may and is hereby empowered to collect any rent due from the assignee.

(b) Except as provided in Section 27(e), the making of any assignment, mortgage, pledge, encumbrance or subletting, in whole or in part, shall not operate to relieve Lessee herein named from its obligations under this Ground Lease.

(c) Each and every assignee shall immediately be and become and remain liable for the payment of the Rental and other charges payable under this Ground Lease; and for the due performance of all the covenants, agreements, terms and provisions of this Ground Lease on Lessee's part to be performed to the expiration or earlier termination of the term of this Ground Lease and each and every provision of this Ground Lease applicable to Lessee shall also apply to and bind every such assignee and purchaser with the same force and effect as though such assignee or purchaser were the Lessee named in this Ground Lease. No transfer to such assignee

or to such purchaser shall be binding upon Lessor unless such assignee or purchaser shall deliver to Lessor a recordable instrument which contains a covenant of assumption by said assignee or purchaser to such effect, but the failure or refusal of such assignee or purchaser to deliver such instrument shall not release or discharge such assignee or purchaser from its obligations and liability as above set forth.

(d) Any consent by Lessor herein contained or hereafter given to any act or assignment, mortgage, pledge or encumbrance shall be held to apply only to the specific transaction hereby or thereby approved. Such consent shall not be construed as a waiver of the duty of Lessee, or its successors or assigns, to obtain from Lessor a consent to any other or subsequent assignment, mortgage or encumbrance or as a modification or limitation of the right of Lessor with respect to the foregoing covenant by Lessee.

(e) Lessor agrees that it will not unreasonably withhold its consent to a release of Lessee as to all obligations to be performed by Lessee under the terms of this Ground Lease from and after the effective date of an assignment by Lessee of its interest in the Lease together with all of its interest in the Improvements to a third person, firm or corporation provided:

(i) such third person, firm or corporation is of good reputation, is experienced in the maintenance and operation of properties similar to the Premises and has sufficient financial worth considering the nature and extent of the obligations hereunder, and Lessee shall have supplied Lessor with satisfactory evidence thereof.

(ii) Lessee shall not then be in default under the provisions of this Ground Lease;

Where Lessee shall assign its interest in the Ground Lease, together with all of its interest in the Improvements, with the consent of Lessor, as provided in this Section 27(e), and the assignee shall execute and deliver to Lessor the recordable instrument containing the covenant of assumption referred to in Section 27(c) hereof, the assignor shall be released of all obligations under this Ground Lease from and after the effective date of such assignment.

(f) Lessee shall not mortgage or encumber the Improvements without the prior written consent of Lessor in each instance; *provided, however*, that such restriction shall not apply

to the original Permitted Mortgage or any refinancing of the same, provided that Lessee notifies Lessor of such refinancing according to the provisions of this Ground Lease.

(g) During the term of this Ground Lease, Lessor may not transfer, assign or mortgage Lessor's fee interest in the Demised Land, Lessor's interest in this Ground Lease and the rentals payable hereunder or Lessor's remainder interest in the Improvements without the prior written consent of the Lessee, which consent shall not be unreasonably withheld in the event that each of the following conditions are met to the reasonable satisfaction of Lessee.

(i) With respect to any such transfer or assignment, the purchaser, transferee or assignee as the case may be, shall execute and deliver to Lessee an instrument in writing, in form satisfactory to Lessee, assuming all obligations of Lessor under this Ground Lease (whereupon the transferor or assignor, as the case may be, shall be released from all obligations under this Ground Lease except the liability, if any, for accrued amounts at the time due and payable).

#### **28. Surrender.**

(a) Upon any expiration or other termination of this Ground Lease, Lessee shall quit and surrender the Premises to Lessor in good order and condition, except for ordinary wear and tear and except for any portion or portions of the Premises which shall have been taken in a condemnation proceeding resulting in such termination under Section 13, provided that Lessee shall remove or cause to be removed from the Premises any Personal Property belonging to Lessee or third parties, which can be so removed without material damage to the Premises, and at its cost and expense shall repair any damage caused by such removal. Personal Property not so removed shall become the property of Lessor, which may thereafter cause such property to be removed from the Premises and disposed of.

(b) If a casualty or other event causes the parties to elect not to reconstruct the Improvements, then this Ground Lease shall terminate and Lessee shall return the Premises to the Lessor as set out herein.

#### **29. Attorney Fees and Costs.**

In the event that either Party to this Ground Lease shall interpret or enforce any of the provisions hereof in any action at law or in equity, the unsuccessful Party agrees to pay the

prevailing party all costs and expenses, including reasonable attorneys' fees, accountants' and appraisers' fees, and fees of other experts incurred therein by the prevailing party, including all such costs and expenses incurred with respect to an appeal and such may be included in the judgment entered in such action.

**30. Integration.**

This Ground Lease embodies the entire agreement and understanding of the Parties relating to the subject matter herein and supersedes all prior understandings relating thereto. This Ground Lease shall not be modified except in writing signed by all Parties to be bound. Included as a part of this Ground Lease are (1) Exhibit A - Leased Premises Description, and (2) Exhibit B - Plans and Specifications; and (3) Exhibit C - Facilities Lease Agreement.

**31. Execution of Documents.**

The Parties agree that they shall sign or cause to be signed all documents necessary to the effectuation of this Ground Lease or any of the provisions herein.

**32. Warranty.**

Lessor warrants that it has the power and authority to enter into this Ground Lease and that the execution, delivery of this Ground Lease and the performance of the contractual obligations set forth herein are not in violation of any federal, state, local statute, ordinance, rule or regulation and that no consents not already obtained are required. Lessor further warrants that Lessor has good and marketable title to the property described in Exhibit A, subject to the existing laws and constitutional provisions of the State of Idaho and all existing rules and regulations promulgated by the State of Idaho, free and clear of all liens and encumbrances. Lessee warrants it has the power and authority to enter into this Ground Lease and further warrants it has the funds necessary to complete the construction of the Facility in accordance with the terms of this Ground Lease and Facilities Lease.

**33. Notices.**

Any notice on demand given under this Ground Lease shall be deemed given and delivered on the date when personally delivered in writing, or if mailed, the date the same is deposited in the United States mail, in a sealed envelope by registered or certified mail return receipt requested,

postage prepaid and properly addressed to each of the parties designated representatives as follows:

If to Lessor:

Roger B. Madsen, Director  
Department of Employment  
317 Main Street  
Boise, Idaho 83735

If to Lessee:

TFDOE, Limited Liability Company  
Steven W. Hosac, Managing Member  
1606 West Hays Street  
Boise, Idaho 83702

**34. Binding Effect.**

This Ground Lease shall be binding upon and shall inure to the benefit of the heirs, personal representatives, successors and assigns of the parties.

**35. Approval Date.**

This Ground Lease shall become effective upon execution of the Ground Lease by the Parties and written approval is received from the Permanent Building Fund Advisory Council.

**36. Severability.**

In the event any provision of this Ground Lease shall be held invalid or unenforceable according to law, the validity, legality or enforceability of the remaining provisions and the application thereof shall not in any way be affected or impaired.

**37. Governing Law.**

This Ground Lease shall be construed and interpreted according to and in a manner consistent with the law of the State of Idaho.

**38. Headings.**

Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provisions of this Ground Lease.

**39. Counterparts.**

This Ground Lease may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

**40. Time of the Essence.**

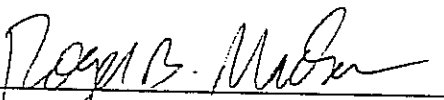
Time is of the essence of this Ground Lease, and of each and every covenant, term, condition, and provisions thereof.

**41. Recording Copy.**

Either Party may, at their option and expense, record this Ground Lease or a Memorandum of Ground Lease.

IN WITNESS WHEREOF, the parties have caused this Ground Lease Agreement to be executed the day and year first above written.

Lessor:

By   
Roger B. Madsen, Director  
Department of Employment

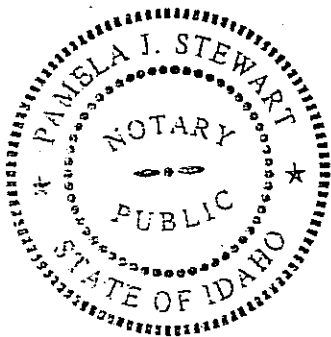
STATE OF IDAHO )

) ss.

County of Ada )

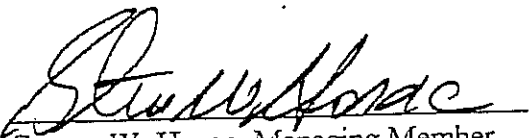
On this 18<sup>th</sup> day of April, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Roger Madsen, known to me to be the Director of the Department of Employment of the State of Idaho, who acknowledged to me that he executed the within Ground Lease Agreement on behalf of the State of Idaho in his representative capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.



Pamela J. Stewart  
Notary Public for Idaho  
Residing at Boise, Idaho  
Commission Expires: 6-23-00

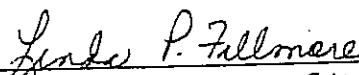
Lessee:

  
Steven W. Hosac, Managing Member  
TFDOE, Limited Liability Company

CALIFORNIA  
STATE OF ~~IDAHO~~ )  
RIVERSIDE ) ss.  
County of ~~Ada~~ )

On this 15<sup>th</sup> day of APRIL, 1996, before me, the undersigned, a Notary Public in and for said State, personally appeared Steven W. Hosac, known to me to be the Managing Member of TFDOE, Limited Liability Company, who acknowledged to me that he executed the within Ground Lease Agreement in his representative capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

  
Notary Public for ~~Idaho~~ CALIFORNIA  
Residing at ~~Borise, Idaho~~ BERMUDA DUNES, CA  
Commission Expires: 8-31-98

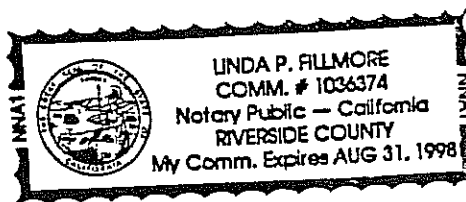




EXHIBIT "A"

Located in SE 1/4 NE 1/4, Section 4, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho.

Commencing at the East Quarter Corner of Section 4. Said point lies S 01°02'00" E 2589.89 feet from the Northeast Corner of Section 4. Thence N 89°28'45" W, 700.00 feet along the South Boundary of NE 1/4, Section 4. Thence N 01°02'00" E, 30.00 feet to the INITIAL POINT.

Thence, N 89°28'45" W 264.00 feet.  
Thence, N 01°02'00" E 330.00 feet.  
Thence, S 89°28'45" E 264.00 feet.  
Thence, S 01°02'00" W 330.00 feet.

Also described as Lot 1, Block 4, Breckenridge Farms Phase V Subdivision, according to the official plat thereof filed in the Twin Falls County Records Office.

## **EXHIBIT 2**

## FACILITIES LEASE AGREEMENT

THIS LEASE AGREEMENT is made and entered into this 15<sup>th</sup> day of April, 1996, by and between TFDOE, Limited Liability Company (hereafter "Landlord"), and the State of Idaho acting by and through the Department of Employment (hereafter "Tenant") collectively referred to herein as the "Parties."

WHEREAS, the Parties hereto have entered into a Ground Lease which defines their respective rights, duties, and obligations with respect to the described property and each other; and

WHEREAS, the Ground Lease incorporates this Facilities Lease, and

In consideration of the mutual covenants and conditions contained herein, the Parties agree as follows:

### ARTICLE I.

#### PREMISES

1.01. Real Property. Landlord herein has agreed to construct Improvements according to the Plans, Specifications, designs and drawings (hereinafter Construction Documents which are listed on Exhibit B), upon real property, which real property is described in Exhibit A, and which Landlord has leased from the Tenant pursuant to a Ground Lease. Upon completion of construction, Landlord agrees to lease such Improvements to Tenant on the terms herein.

1.02. Premises. Landlord leases to Tenant and Tenant leases from the Landlord the Premises upon the terms set forth in this Facilities Lease. The terms, conditions, covenants and agreements of this Facilities Lease shall apply uniformly with respect to all improvements constructed by Landlord respecting the Premises, except as may expressly be stated to the contrary in this Facilities Lease. The Premises are more specifically defined as the Department of Employment Twin Falls Office Building described in Exhibit A, and the Improvements constructed thereon as described in Exhibit B - Construction Documents - Plans and Specifications.

## ARTICLE II.

### TERM

#### 2.01. Lease Term.

a. Initial Term. The initial term of this Facilities Lease and all Tenant obligations herein shall commence on the date of substantial Completion of the constructed Improvements and shall continue thereafter for a period of ten (10) years.

b. Renewal Terms. The Landlord grants to Tenant the right to renew the Facilities Lease for up to five additional periods of five years each, for a total renewal term of up to twenty-five (25) years, for a total Lease Term of thirty-five (35) years. Any renewal term shall be subject to the same provisions contained in this Facilities Lease, except that the Parties shall execute a written amendment reflecting any change in the amount paid as rent herein.

No action is required by Tenant to exercise its renewal right, but in the event Tenant elects not to renew the Facilities Lease, Tenant shall notify Landlord in writing within 180 days prior to the date of the expiration of the current Lease Term of Tenant's intent to not renew this Facilities Lease.

## ARTICLE III.

### RENT

The Tenant shall pay the Landlord, as rent for the Premises, the following amounts, determined and payable in the manner and at the time set forth to wit:

3.01. Deposit. No security deposit shall be required of the Tenant.

3.02. Rent. The Tenant shall pay to the Landlord, as annual rent, without abatement, offset or deduction of any kind unless expressly allowed by this Facilities Lease, the amount of rent shown on Schedule I. Each of said annual rent payments will be made payable in advance beginning on the first day of Tenant's occupancy of the Premises and on the first day of the following month for each year thereafter. All rent shall be paid in lawful money of the United States of America. The Tenant shall deduct from the annual rent amount due and remit to the Idaho State Treasurer, as the escrow holder 2 1/2% of the annual rent to fund the Facility Reserve Account.

3.03. Renewal Rate. The Parties shall 180 days prior to the expiration date of the Initial Term or any Renewal Term meet to establish the annual rent for the forthcoming Renewal Term. The annual rent will be based upon market conditions for similar facilities located in Twin Falls and Jerome Counties as agreed upon by the Parties and memorialized by written amendment to this Facilities Lease. The annual rent paid for each Renewal Term shall be subject to 2.5% payment to the Facility Reserve Account.

3.04. Additional Rent. All other amounts which, pursuant to this Lease are to be paid by the Tenant to or on behalf of the Landlord shall be considered "additional rent" for all purposes under this Lease.

3.05. Place of Payment. Unless and until otherwise directed by the Landlord in writing, Tenant shall deliver all notices and pay all rent to the order of the Landlord at the address set forth in Article XXII, below.

#### ARTICLE IV.

##### USE OF PREMISES

4.01. Use. The Premises shall be used by the Tenant for administrative offices, training offices, and other purposes consistent with the Construction Documents, or any future alteration made according to this Lease.

4.02. Legal Compliance. The Tenant's use of Premises shall be in full compliance with all statutes, ordinances, rules, regulations and laws of governmental authorities applicable to the Premises. The Tenant shall not do anything which will create a nuisance or a danger to persons or property. Tenant shall comply with all applicable rules and regulations and standards governing buildings and Premises.

4.03. Waste. The Tenant shall not use the Premises in any manner that would constitute waste, nor shall the Tenant allow the same to be committed thereon.

4.04. Electrical Requirements. If the Tenant installs upon the Premises any electrical equipment which causes an overload on the electrical services to the Premises, the Tenant shall, at the Tenant's cost and expense, make the necessary changes to comply with the requirements of insurers, the providing utility company, and any government authorities having jurisdiction

thereover. Nothing herein shall be deemed to constitute the Landlord's consent to such overloading.

4.05. Disposal of Refuse. The Tenant shall store all trash and garbage within the Premises or in an area designated as appropriate therefore by the Landlord. The Tenant shall arrange for and bear the expense of prompt and regular removal of trash and garbage from the Premises. Tenant represents and warrants to Landlord that it will not allow the use, production, testing, storage, disposal or bringing onto the Premises, of any Hazardous Materials. As used herein hazardous substance includes any substance, waste or material defined or designated as hazardous, toxic or dangerous (or any similar term) by any applicable federal, state or local law, regulation, rule or ordinance now or hereafter in effect.

4.06. Suitability. The Tenant acknowledges that neither the Landlord nor any agent of the Landlord has made any representations or warranty with respect to the Premises or concerning the suitability of the Premises for the uses intended by the Tenant.

✓ 4.07. Janitorial and Landscape Maintenance Service. The Tenant shall, at its sole expense, employ janitorial service, snow removal services and landscape maintenance services for upkeep of the Premises. All costs for said janitorial services, snow removal and landscape maintenance shall be paid by Tenant through separate arrangement.

#### ARTICLE V.

##### QUIET ENJOYMENT

The Landlord agrees that the Tenant, upon paying the rent and performing the terms of this Facilities Lease, may quietly have, hold and enjoy the Premises during the term hereof.

#### ARTICLE VI.

##### UTILITIES

The Tenant shall pay for all heat, air conditioning, water, light, power and/or other utility service, including garbage and trash removal and sewage disposal, excluding all construction related hook-up fees or charges in connection therewith, used by the Tenant in or about the Premises during the term of this Lease. The Landlord shall not be liable for any interruption or failure in supply of any utility or service to the Premises.

## ARTICLE VII.

### TAXES AND ASSESSMENTS

7.01. Payment of Taxes and Assessments. The Tenant shall, if necessary, pay any personal property taxes which may be assessed, if any local taxing authority may assert such authority. Based on prior opinions of the Attorney General, it is the understanding of the parties hereto that ad valorem real property taxes and other assessments levied and assessed against the Premises shall not be payable, due to the ownership interest of the Department of Employment as agent of the State of Idaho in its sovereign capacity, in and to the Premises. In the event of a determination that taxes may be levied and assessed against the Premises, Tenant shall timely reimburse Landlord as Additional Rent the amount of any ad valorem real property tax so levied and assessed. Any reimbursement due the Landlord hereunder shall be paid within a reasonable time after delivery to the Tenant of copies of the tax bills evidencing the assessment of such taxes reimbursable under this section. The Landlord agrees to pay, when due, before delinquency, directly to the tax collecting authority, all taxes and assessments levied and assessed against the Premises. In the event Landlord fails to pay such taxes and assessments when due, the Tenant shall have the right, but not the obligation, to pay the same directly to the taxing authority, with offset of said amount from the annual rental payments which are next due.

7.02. Right to Contest. The Tenant, at Tenant's expense, shall have the right to contest the amount or validity of all or any part of the ad valorem real property taxes and assessments required to be paid by the Landlord hereunder, provided, however, that the Tenant shall indemnify the Landlord against any loss or liability by reason of such contest. Notwithstanding such a contest, all taxes otherwise due and payable to the Landlord by the Tenant shall be paid upon demand but any refund thereof by the taxing authority shall be the property of the Tenant. Landlord and Tenant agree to assist each other as may be reasonably necessary in any contest of ad valorem real property taxes and assessments.

7.03. New Taxes. The Tenant shall be required to reimburse to the Landlord promptly upon demand any and all taxes and other charges, excluding initial hookup fees, payable by the Landlord to any governmental entity (other than net income, estate and inheritance taxes) whether

or not now customarily paid or within the contemplation of the parties hereto, by reason of or measured by the rent payable under this Lease or allocable to or measured by the area or value of the Premises or upon the use and occupancy by the Tenant of the Premises or levied for services rendered by or on behalf of any public, quasi-public or government entity.

#### ARTICLE VIII.

##### MAINTENANCE AND REPAIR OF PREMISES

8.01. Tenant's Obligation. The Tenant shall at all times after occupancy of the Premises keep the Premises in good order, condition and repair, including periodic painting of the interior of the Premises. The Tenants duty to maintain includes the maintenance of all portions of the Premises not maintained by the Landlord. The Tenant shall keep the sidewalks, parking and service areas clear of dirt, rubbish, snow and ice.

8.02. Landlord's Obligation. The Landlord shall be responsible for maintaining the structural components, exterior and interior of entrances, doors, windows, exterior walls including exterior painting and roofs; interior and exterior walls; utility meters; all lighting, heating, air conditioning, electrical and plumbing facilities, equipment and fixtures; all floor and window coverings; ceilings and all other interior portions of the Premises; all landscaping, fencing, sprinkler system and parking lot; all outbuildings, and appurtenances which have been constructed for specific use of Tenant; and shall keep all sidewalks, parking areas and service areas which are part of the Premises in good repair.

8.03. Facility Reserve Account.

a. Establishment. The Tenant shall be responsible for establishing a "Facility Reserve Account" which account shall be held by Idaho State Treasurer in a trust account for the Tenant. The Landlord shall be responsible for funding the Facility Reserve Account. The Facility Reserve Account shall be funded by 2.5% of annual rental fee. The "Facility Reserve Account" is for the benefit of the Tenant and is not the property of Landlord or Landlord's successor in interest or assigns. The obligation of funding the Facility Reserve Account will survive any sale or transfer by Landlord.



b. Use of Reserve Account. The Facility Reserve Account is established to provide a fund for the general maintenance, repair, renovation, remodeling and upgrading of all Improvements as described in Section 8.02 above. The use of the Facility Reserve Account shall be at the discretion of Tenant. The Landlord shall obtain prior written consent of the Tenant to use the Facility Reserve Account to make repairs pursuant to Section 8.02, except for emergency repairs. Emergency repairs require no prior approval by Tenant. Emergency repairs are repairs to the Premises necessitated by an existing threat to public health, welfare, or safety, which if not immediately repaired, shall cause an imminent threat to life or property. The Landlord's maximum obligation to expend funds for general maintenance, repair, renovation, remodeling and upgrading of the Improvements shall be limited to the total contribution to the Facility Reserve Account in the amount of 2 1/2 percent of the annual lease rent. In the event the Facility Reserve Account, from time to time, does not contain sufficient funds to accomplish or provide for any reasonably required general maintenance, repair, renovation, remodeling and upgrading of the Improvements pursuant to the obligations set forth in Section 8.02, then Landlord shall provide funding of all such costs that may be in excess of the funds then currently available in the Facility Reserve Account. The Tenant shall credit the Landlord for all such deficiency advances from future accruals to the Facility Reserve Fund, until all deficiencies are credited to Landlord. In no event shall Tenant, or the Facility Reserve Fund be responsible to pay for general maintenance, repair, renovation, remodeling or upgrading necessitated by latent defects in material or work quality.

8.04 Failure to Repair. If the Landlord refuses or neglects to make repairs and/or maintain the Premises or any part thereof, as required by Section 8.02 in a manner reasonably satisfactory to Tenant, Tenant shall have the right, upon giving Landlord reasonable written notice of Tenant's election to do so, to make such repairs or perform such maintenance on behalf of and for the account of Landlord. In such event, such work will be an offset against the amount deposited in the Facility Reserve Account, and if such fund is insufficient, then from any rent due, and then periodically thereafter to refund the amounts advanced by Tenant in excess of the Facility Reserve Fund. The exercise of Tenant's reserved rights shall entitle the Tenant to any

damage for any injury or any inconvenience occasioned thereby in addition to any abatement or set-off with respect to rent owed by Tenant to Landlord.

## ARTICLE IX

### INSURANCE

#### 9.01. Insurance During Construction.

The Landlord shall prior to the construction of the Improvements and prior to any alteration, addition or improvements, obtain or cause to be maintained with responsible insurers at the Landlord's expense, the following policies of insurance: (1) comprehensive general liability insurance for the entire Premises during construction; and (2) builder's risk insurance (fire with extended coverage and vandalism endorsement) in an amount not less than one hundred percent (100%) of the value of the Improvements as completed. In addition, prior to the commencement of any construction on the Premises, the Landlord or any contractor or contractors employed by the Landlord or any other person who will do work on or install the equipment in the Facility shall be fully covered by worker's compensation insurance and all certificates of worker's compensation insurance shall be furnished to the Parties before commencement of construction.

9.02 Insurance After Construction. After construction of the Improvements and written notice of substantial completion is delivered to the Parties, Landlord shall during the term of this Facilities Lease procure and maintain with responsible insurer at Landlord's sole expense, the following insurance coverages:

(a) Fire and extended coverage insurance in an amount equal to at least one hundred percent (100%) of the full replacement cost of the improvements.

(b) Comprehensive General Liability Insurance for all accidents occurring on the Premises according to the following: Bodily injury and property damage \$500,000 per occurrence, not less than \$2,000,000 in the aggregate in the event of bodily injury or death to any number of persons in any one accident, with limits of loss of not less than \$2,000,000 with no more than a \$10,000 deductible.

9.03 Business Interruption Insurance. Tenant shall purchase and keep in force business interruption insurance, to the extent available, to assure payment of annual rent described in

Article III. Tenant will keep in force insurance or self-insurance consistent with State of Idaho, Bureau of Risk Management requirements. Such coverages shall include bodily and personal injury insurance and insurance covering Tenant's leasehold, improvements, trade fixtures, equipment and personal property and the indemnity requirements contained in Article XV of this Facilities Lease. Any coverage provided by Landlord shall be primary to and not contributory to any coverage maintained by Tenant.

9.04 Notice of Cancellation. Any certificate or self-insurance certificate provided to one of the Parties herein shall provide for a thirty (30) day Notice of Cancellation or non-renewal.

## ARTICLE X

### DESTRUCTION OF PREMISES

10.01. Fully Tenantable. If the Premises are damaged by fire or other casualty ("occurrence"), but are not thereby rendered untenable, in whole or in part, the Landlord shall, at its own expense cause such damage to be repaired and the rent shall not be abated.

10.02. Partially Untenable. If the Premises shall be rendered partially untenable by reason of such occurrence, the Landlord shall, at its own expense, cause the damage to be repaired and the rent shall either be paid by Tenant or, if such insurance is available to insure fully Tenant's obligation for rent, Tenant shall assign such insurance proceeds as Tenant may recover for such rent.

10.03. Totally Untenable. If the Premises shall be rendered wholly untenable by reason of such occurrence, and Parties shall elect not to reconstruct the Premises, and in such event this Facilities Lease and tenancy hereby created shall cease as of the day of said occurrences, and the Parties may elect to receive all of the proceeds of insurance covering such risks, and rent shall abate as of that date and the Ground Lease shall become void.

## ARTICLE XI

### EMINENT DOMAIN

11.01. Definition of Taking. If the Premises are acquired or damaged by the exercise of the right of eminent domain or conveyed in lieu thereof, by the change of grade of adjacent streets or other activity by a public authority, whether or not such damage involves a physical taking of

any portion of the Premises, this shall be considered a taking. If the extent of the taking is such that the Premises are no longer suitable for the purposes of the tenancy, this shall be considered a total taking. Any other taking shall be considered a partial taking.

11.02. Total Taking. In the case of a total taking, this Lease shall terminate at the date the Premises are rendered unsuitable for the purposes of the tenancy and all compensation therefore whether fixed by agreement or judicial award shall belong to the Tenant and Landlord as co-payees, except those portions of the award that are specifically allocated as compensation for actual expenses incurred by the Tenant for moving the Tenant's fixtures, stock in trade, business interruption, inventory, equipment, and personalty, and as compensation for the taking of the Tenant's fixtures and leasehold improvements which shall belong to the Tenant and which Tenant has a right to remove. The sharing of any condemnation award will be according to the respective interest of the parties as determined by the condemnation appraisal.

11.03. Partial Taking. In case of a partial taking and if this Lease is not terminated, Landlord shall repair the Premises in accordance with plans and specifications reasonably approved by Tenant, and neither Landlord nor Tenant shall be obligated to expend for such repairs an amount greater than the compensation received from the condemning authority. In the case of any partial taking, all compensation paid by the condemning authority in connection with the taking, whether fixed by agreement or judicial award, shall be paid to the Tenant and Landlord as co-payees, and if this Lease is not terminated as of above-provided, such award shall be utilized by the parties hereto for the purpose of making repairs necessitated by the taking. There shall be no reduction or abatement of rent as a consequence of such taking.

## ARTICLE XII

### CONSTRUCTION IMPROVEMENTS, ALTERATIONS AND ADDITIONS

#### 12.01. Construction of Improvements.

a. Completion Dates. The Landlord shall have constructed on the Premised Land the Improvements described in the Construction Documents (Exhibit "B"). Construction shall commence on or before June 1, 1996, and shall be substantially complete and ready for

Tenant's occupancy on or before October 31, 1996, all subject to unavoidable delays caused by weather or force majeure, as force majeure is defined in the Ground Lease.

b. Permits. Landlord shall, at its own expense, obtain all necessary permits and licenses, for the construction of the Project, give all the necessary notices, pay all fees required by law, and comply with all laws, ordinances, rules and regulations relating to the Work and to the preservation of public health and safety. Tenant shall pay to Department of Labor and Industrial Services for the plan check fees imposed by it.

c. Inspection. Tenant, or its agent, may inspect the Work during construction for compliance with the Construction Documents. Work which is observed as noncomplying will be reported to Landlord for correction. All noncomplying Work will be corrected whenever it is discovered, all at no additional cost to Tenant. This right of inspection shall not relieve Landlord from its duty to inspect or construct the Work according to the Construction Documents.

d. Progress Payments. The Landlord shall make all progress payments to the Contractor. The Architect and Landlord shall review the application for payment and make any adjustments required based upon the Architect's observation of the Work.

e. Change Orders. Tenant and Landlord must both execute a written authorization to order extra work, or make changes by altering, adding or deducting from the Work or changing the time of completion. The lease rate set forth in Article III of the Facilities Lease shall be adjusted accordingly, at any time during the progress of the Work.

f. Completion of Construction. Upon Completion of Construction as defined in the Ground Lease, Landlord shall forward a copy of the Architect's Certificate of Substantial Completion to Tenant along with the Certificate of Occupancy issued by the authorized building officials. Landlord shall keep the demised Premises free of any material or contractor liens.

g. Warranty. The Landlord shall obtain a one year warranty from the Contractor for all materials, workmanship and equipment furnished under the Construction Contract Documents and a minimum twenty (20) year manufacturer's warranty for the roof system, excluding skylight which shall have a one year warranty.

12.02 Alterations. Neither Landlord nor Tenant shall make any alterations, additions or improvements in or to said Premises after occupancy by Tenant without the written consent of the other during the term of this Lease, such consent shall not be unreasonably withheld. Any and all alterations and improvements shall be made by Landlord or Tenant based upon prior written agreement and any fixture permanently attached to the land shall become a portion of the Premises.

12.03. Code Compliance. Any such construction, alterations, and additions must comply with all appropriate codes, ordinances, and rules and regulations applicable to Premises. Any and all such construction, alterations and repairs shall be performed in a good, worker-like manner, and in a manner which shall not constitute waste.

12.04. Lien Free. Landlord and Tenant shall keep the demised Premises free of any material or contractor liens.

### ARTICLE XIII

#### SIGNS

13.01. No exterior signs shall be erected or installed by the Landlord except such as are approved as part of the Project design, specifications, and project manuals and additions and modifications thereto. Landlord hereby approves all signs contemplated within the scope of the Plans and Specifications.

### ARTICLE XIV

#### WAIVER OF SUBROGATION RIGHTS

14.01. Mutual Releases. The Tenant and Landlord mutually waive their respective rights of recovery against each other for any loss fully insured by fire, lightning, extended coverage or other property and casualty insurance policies existing for the benefit of the respective parties.

#### 14.02. Officials, Agents, and Employees Not Personally Liable

It is agreed by and between the Parties hereto that in no event shall any official, officer, employee or agency of Tenant, or the State of Idaho be in any way liable or responsible for any covenant or agreement herein contained, whether expressed or implied, nor for any statement, representation or warranty made herein or in any way connected with this Facility Lease

Agreement. The sole responsibility and liability for the performance of this Facility Lease and all of the provisions and covenants herein contained pertaining to the Landlord shall rest in and be vested with the Landlord. The sole responsibility and liability for the performance of this Facility Lease and all of the provisions and covenants herein combined pertaining to Tenant shall rest and be vested with the Idaho Department of Employment.

#### ARTICLE XV

##### INDEMNIFICATION

15.01. Indemnification. Landlord shall indemnify the State and hold it harmless from and for any and all losses, claims, actions, judgments for damages, or injury to persons or property and losses and expenses (collectively "losses") caused or incurred by the wrongful act, omission or negligence of Landlord, its servants, agents, employees, guests and business invitees arising from the performance of this Facilities Lease, and not caused by or arising out of the wrongful act, omission or negligent conduct of the State or its employees. Likewise, the State shall indemnify Landlord and hold it harmless to the extent provided by the Idaho Tort Claims Act, from and for any and all losses caused or incurred by the wrongful act, omission or negligent conduct of the State, its servants, agents, employees, guests and business invitees while acting within the scope of their office or employment in performance of this Facilities Lease, and not caused by or arising out of the wrongful act, omission or negligent conduct of the Landlord or its employees. For purposes of this Section, such losses include, without limitation those caused by any spill, disposal, discharge, or release of any hazardous material into, upon, from, or over that Premises.

#### ARTICLE XVI

##### ASSIGNMENT, SUBLETTING AND MORTGAGING

16.01. Tenant shall not transfer, assign, sublet, enter in license or concession agreements, change ownership or hypothecate this Lease (hereafter "transfer") or the Tenant's interest in or to the Premises without first obtaining the written consent of the Landlord which shall not be unreasonably withheld. Provided, however, that in the event of insufficient appropriation by the Legislature, Landlord consents to permit Tenant to obtain other state agencies as tenants, to

continue rent as otherwise required under the terms of this Facilities Lease for the remainder of the term of this Facilities Lease. Further, in the event of failure of Tenant to obtain additional state agency tenants in number and with funding sufficient to continue providing rent, Landlord may request Tenant to offer to sub-lease or re-let the Premises to other political subdivisions or private parties who may wish to obtain tenancy in the Premises. Any and all such rent collected from such tenants shall be made payable to Landlord hereunder pursuant to the terms of this Facilities Lease.

16.02. In the event Tenant is unable to sublet space, then the Landlord shall find other suitable Tenants and the rent due by Tenant shall be abated and a revised Facilities Lease shall be entered into recognizing the changed occupancy.

16.03. Assignment by Landlord

Landlord may sell or transfer the Facilities Lease according to Article XX, and should Tenant not exercise its rights of first refusal, Landlord may sell or transfer its interests in the Improvements. Any Assignment by Landlord must be approved in writing by Tenant, which approval shall not be unreasonably withheld.

Any such sale, transfer or assignment will be subject to this Facilities Lease.

## ARTICLE XVII

### SUFFICIENT APPROPRIATION

17.01. Sufficient Appropriation by Legislature Required. It is understood and agreed that the Tenant is a government entity, and this Facilities Lease shall in no way or manner be construed so as to bind or obligate the State of Idaho, beyond the term of any particular appropriation of funds by the State Legislature as may exist from time to time. The Tenant reserves the right to terminate this Facilities Lease if, in its judgment, the Legislature of the State of Idaho, fails, neglects or refuses to appropriate sufficient funds as may be required for Tenant to continue such lease payments. All future rights and liabilities of the parties hereto shall thereupon cease within ten (10) days after notice to the Landlord of such failure, neglect or refusal of or inadequacy of a sufficient appropriation.



## ARTICLE XVIII

### DEFAULT

18.01. Events of Default. Time is expressly made of the essence of this Lease. At any time during the term of this Facilities Lease and regardless of the pendency of any bankruptcy, reorganization, receivership, insolvency, supervision or other proceedings, in law, in equity or before any administrative tribunal, which has or may have the effect of preventing the Landlord or Tenant from complying with the terms of this Facilities Lease, if the Tenant shall:

- (a) fail to pay when due any installment of rent or any other sum herein specified to be paid by the Tenant within ten (10) days following the due date therefor without the requirement for notice or demand; except for nonpayment resulting from nonappropriation of funds, or
- (b) fail to timely observe or perform the Tenant's other covenants, agreements or obligations hereunder within thirty (30) days following written notice delivered to the Tenant, which notice shall specify the matter(s) therein default; provided that additional time reasonably required to cure the matter(s) in default shall be allowed so long as the Tenant is diligently pursuing all actions required to cure the matter(s) for which a default is claimed under this subsection (b); the same shall constitute a default by the Tenant of this Lease.

18.02. Termination. In the event of a default by the Tenant, the Landlord, in addition to any other remedy or remedies available to the Landlord at law or in equity, shall have the immediate right, but not the obligation, to terminate this Facilities Lease.

18.03. Default by Landlord. Tenant shall notify Landlord promptly of any default not by its nature necessarily known to Landlord. Landlord shall not be in default under this Facilities Lease Agreement unless Landlord fails to perform its obligation or commences to perform its obligation within one day after notice by Tenant specifying where Landlord failed to perform; provided that if the nature of Landlord's obligation is such that more than thirty (30) days are required to perform, Landlord shall not be in default if Landlord commences performance within one day of Tenant's notice and thereafter pursues performance with due diligence.

One of Tenant's remedies for Landlord's default, in addition to all other remedies Tenant may have, shall be a cause of action for damages. If there are any repairs that are the obligations of Landlord, and Landlord exceeds the time allowed by this subparagraph, then Tenant may, if Tenant chooses, elect to perform the repair and offset the cost of said repair including any interest expense from Facility Reserve Account. Tenant has no right to terminate this Facilities Lease Agreement unless the building is completely untenable.

18.04. Right of Mortgagee to Cure Landlord Default. In the event of any default on the part of Landlord, and within ten (10) days of default, Tenant will give notice by registered or certified mail or by facsimile transmission to any mortgagee whose address shall be furnished to Tenant, and shall offer the mortgagee an opportunity to cure or to commence to cure the default within fifteen (15) days after notice from Tenant, provided that such cure period shall be extended to include the time for the mortgagee to obtain possession of the Demised Premises by power of sale or judicial foreclosure, if such should prove necessary to effect a cure.

#### ARTICLE XIX

##### LANDLORD'S ENTRY ON PREMISES

19.01. Right of Entry. The Landlord, and its authorized representatives, shall have the right to enter the Premises due to emergency conditions, and at all other reasonable times for reasonable purposes to determine Tenant's compliance with the terms of this Facilities Lease subject to Tenant's reasonable security requirements. Such right shall expressly include the right of entry for showing to prospective tenants or purchasers in the event of a termination declared by Tenant on account of Tenant's inability to pay. The Tenant agrees to hold the Landlord harmless from any inconvenience, disturbance, loss of business, nuisance or other damage arising out of Landlord's entry on the Premises as provided in this paragraph provided, however, that Landlord shall conduct its activities on the Premises as allowed herein in a manner that will cause the least possible inconvenience, annoyance or disturbance to Tenant.

#### ARTICLE XX

##### RIGHT OF FIRST REFUSAL

20.01. Right of First Refusal. In the event Landlord shall receive a bona fide offer to purchase the Premises during the term of this Facilities Lease and the offer of purchase shall be satisfactory to Landlord, Landlord shall give Tenant the privilege of purchasing the Premises at the price and on the terms of the offer so made. This privilege shall be given by a notice sent to Tenant at the address set forth in Article XXII by registered mail, requiring Tenant to accept the offer in writing and to sign a suitable contract to purchase the Premises within the period of twenty-one (21) days after the mailing of the notice.

20.02. Failure to Act. The failure of Tenant to accept the offer to purchase or to sign a contract within the period provided shall nullify and void the privilege to Tenant, and Landlord shall be at liberty to sell the Premises to any other person, firm, or corporation. Any subsequent sale of the Premises except to Tenant, shall be subject to this Facilities Lease Agreement and any renewals or extensions of this Facilities Lease Agreement.

#### ARTICLE XXI

##### WAIVER

21.01. The waiver by the Landlord, or by Tenant, of any breach of any term, covenant or condition of the Facilities Lease shall not be deemed to be a waiver of any past, present or future breach of the same or any other term, covenant or condition of this Facilities Lease. The acceptance of rent by the Landlord hereunder shall not be construed to be a waiver of any term of this Facilities Lease. No payment by the Tenant of rent due according to the terms of this Facilities Lease shall be deemed or construed to be a waiver of any breach by Landlord.

#### ARTICLE XXII

##### NOTICES

22.01. Any notice or demand given under the terms of this Facilities Lease shall be deemed given and delivered on the date when personally delivered in writing or, if mailed, the date the same as deposited in the United States Mail, in a sealed envelope, by registered or certified mail, return receipt requested, postage prepaid and properly addressed to each of the Parties designated herein. Until changed by notice in writing, notices, demands and communications shall be addressed as follows:

LANDLORD:

TFDOE, Limited Liability Company  
Steven W. Hosac, Managing Member  
1606 West Hays Street  
Boise, Idaho 83702

TENANT:

Director, Department of Employment  
317 Main Street  
Boise, Idaho 83735

Any Party shall have the right to change his, her or its address by notice in writing delivered to the other Party in accordance with the provisions in this Article.

### ARTICLE XXIII

#### ATTORNEYS' FEES AND COSTS

23.01. General Default. If either Party shall default in the payment to the other Party of any sum of money specified in this Facilities Lease to be paid or if either Party shall default with respect to any other obligations in this Facilities Lease, all attorneys' fees reasonably incurred by the other Party as a result of such default shall be paid by the defaulting Party and if said sum is collected or the default is cured before the commencement of a suit thereon, as a part of curing said default, reasonable attorney's fees incurred by the other Party shall be added to the balance due and payable or, in the case of a non-monetary default, shall be reimbursed to the other Party upon demand.

23.02. Litigation. In the event that either Party to this Facilities Lease shall interpret or enforce any of the provisions hereof by any action at law or in equity, the unsuccessful Party to such litigation agrees to pay to the prevailing Party all costs and expenses, including reasonable attorneys', accountants' and appraisers' fees, and fees of other experts, incurred therein by the prevailing Party, including all such costs and expenses incurred with respect to an appeal and such may be included in the judgment entered in such action.

## ARTICLE XXIV

### SURRENDER OF PREMISES

24.01. Reversion. Upon expiration of this Facilities Lease term, but in any event not prior to 35 years or expiration of Ground Lease, all right, title and interest of Landlord herein shall be deemed to revert to the State of Idaho, lien and mortgage free as ground owner, pursuant to the Ground Lease entered separately by and between the State of Idaho and TFDOE, Limited Liability Company. Landlord shall provide at the reversion copies of all operator's and maintenance manuals to Tenant, along with all equipment and component warranties, if any exist.

## ARTICLE XXV

### MISCELLANEOUS

25.01. Modification. This Facilities Lease Agreement may be modified in any particular by the prior written consent of the Landlord and Tenant.

25.02. Complete Statement of Terms. No other understanding, whether oral or written, whether made prior to or contemporaneously with this Facilities Lease Agreement, shall be deemed to enlarge, limit or otherwise effect the operation of this Facilities Lease.

25.03. Landlord's Non-Discrimination. The Landlord hereby agrees to provide all services funded through or effected by this Facilities Lease without discrimination on the basis of race, color, national origin, age or physical or mental impairment, and to comply with all relevant sections of Title VI of the Civil Rights Act of 1964, as amended; Section 504 of the Rehabilitation Act of 1973, as amended including provisions of law relating to the Americans with Disabilities Act, Public Law 101-336 as amended; the Age Discrimination Act of 1975; and to comply with pertinent amendments to these Acts made during the term of this Facilities Lease. The Landlord further agrees to comply with all pertinent parts of the Federal Rules and Regulations implementing these Acts. The parties agree to provide equal employment opportunity and take affirmative action in employment on the basis of race, color, nation origin, religion, sex, age, physical and mental impairment, and covered veteran status to the extent required by Executive Order 11246; Section 503 of the Rehabilitation Act of 1973, as amended, and Section 402 of Viet Nam Era Veteran's Readjustment Assistance Act of 1974, and to comply with all Amendments to

these Acts and pertinent Federal Rules and Regulations regarding the Acts which may be effective during the term of this Facilities Lease.

25.04. Article Headings. The article headings, titles and captions used in this Facilities Lease are for convenience only and are not part of this Lease.

25.05. Entire Agreement. This Facilities Lease, including the Exhibits A - Property Legal Description, B - Plans and Specifications, and Schedule I - Rent attached hereto, contains the entire agreement between the Parties as of the date concerning the subject matter hereof and supersedes all prior agreements, oral or written, between the Parties concerning the subject matter hereof. The execution hereof has not been induced by either Party, or any agent of either Party, by representations, promises or undertakings not expressed herein and, further, there are no collateral agreements, stipulations, covenants, promises, inducements or undertakings whatsoever between the respective Parties concerning the subject matter of this Facilities Lease or the Premises except those which are expressly contained herein. This Facilities Lease, and Ground Lease are an integrated whole.

25.06. Governing Law. This Lease shall be construed and interpreted according to and in a manner consistent with the law of the State of Idaho.

25.07. Severability. In the event any provision of this Facilities Lease shall be held invalid or unenforceable according to law, for any reason whatsoever, then the validity, legality or enforceability of the remaining provisions in the application thereof shall not in any way be affected or impaired.

25.08. Survivability. The provisions of this agreement relating to indemnification shall survive the cancellation or termination of this Facilities Lease. Additionally, the terms of the Ground Lease shall continue upon early termination or non-renewal of this Facilities Lease and Landlord shall then comply with the provisions of the Ground Lease and shall not do any act or omission which shall constitute waste to the Premises or any Improvements to be constructed as an addition thereto.

IN WITNESS WHEREOF The Parties have caused this Facilities Lease Agreement to be executed the day and year first above written.

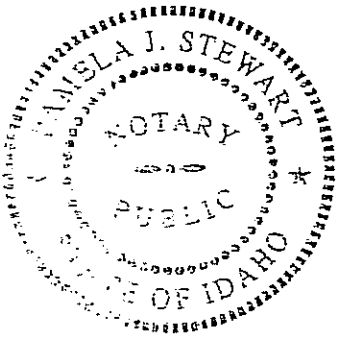
FACILITIES LEASE - 20 of 22  
April 9, 1996

Roger B. Madsen  
Tenant, Department of Employment  
by Roger B. Madsen, Director

STATE OF IDAHO )  
                              ) ss.  
County of Ada        )

On this 13<sup>th</sup> day of April, 1996, before me, the undersigned, a notary public in and for the State of Idaho, personally appeared Roger B. Madsen, known to me to be the Director of the Department of Employment, who acknowledged to me that he executed the within Facilities Lease Agreement on behalf of the State of Idaho in his representative capacity.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal that day and year in this first above-written.

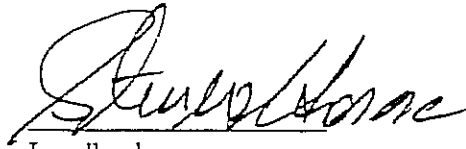


Pamela J. Stewart  
Notary Public for Idaho  
Residing at Boise, Idaho  
Commission Expires: 6-23-00

APPROVED BY: \_\_\_\_\_

[Signature]  
Division of Public Works

TFDOE, Limited Liability Company

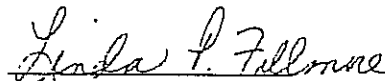


Landlord

by Steven W. Hosac, Managing Member

CALIFORNIA  
STATE OF ~~IDAHO~~ )  
RIVERSIDE ) ss.  
County of Ada )

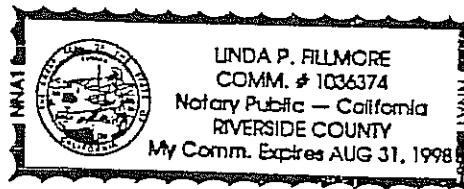
On this 5<sup>th</sup> day of APRIL, 1996, before me, the undersigned, a notary public in and for the State of ~~Idaho~~ <sup>CALIFORNIA</sup>, personally appeared Steven W. Hosac, known to me to be the Managing Member of TFDOE, Limited Liability Company, who acknowledged to me that he executed the within Facilities Lease Agreement on behalf of TFDOE Limited Liability Company, in his representative capacity.



Notary Public for ~~Idaho~~ CALIFORNIA

Residing at Boise, Idaho ~~Idaho~~ BERNUDA DUNES, CA

Commission Expires: 8-31-98





## SCHEDULE I

THIS SCHEDULE I pertains to that certain FACILITIES LEASE AGREEMENT, by and between TFDOE, LIMITED LIABILITY COMPANY (LANDLORD) and STATE OF IDAHO, DEPARTMENT OF EMPLOYMENT (TENANT) which provides for construction by Landlord of a 12,375 square foot office facility to be located in Twin Falls, Idaho for lease and occupancy by TENANT.

### LEASE RENT SCHEDULE:

1. For the first five (5) years (first 60-month term) of the Lease, the annual rent shall be \$10.75 per square foot, or a total of ONE HUNDRED THIRTY TWO THOUSAND FOUR HUNDRED NINETY THREE AND 75/100 (\$132,493.75) DOLLARS per year. Said rent shall be paid in advance annually, beginning on the first day of Tenant's occupancy of the premises, and continuing on each subsequent annual anniversary date thereafter during the first five year term of the Lease.
2. For the second five (5) years (second 60-month term) of the Lease, the annual rent shall be \$11.50 per square foot, or a total of ONE HUNDRED FORTY ONE THOUSAND SEVEN HUNDRED THIRTY SEVEN AND 50/100 (\$141,737.50) DOLLARS per year. Said rent shall be paid in advance annually, beginning of the first day of the second five (5) year term, and continuing on each subsequent annual anniversary date thereafter during the second five year term of the Lease.
3. Renewal of the Lease beyond the initial ten (10) year term shall be at an annual lease rate negotiated and agreed upon by and between both Landlord and Tenant in accordance with the provisions of Paragraph 3.03 "Renewal Rate" set forth in the Facilities Lease Agreement.

tfdoelse.sch

EXHIBIT "A"

Located in SE 1/4 NE 1/4, Section 4, Township 10 South, Range 17 East, Boise Meridian, Twin Falls County, Idaho.

Commencing at the East Quarter Corner of Section 4. Said point lies S 01°02'00" E 2589.89 feet from the Northeast Corner of Section 4. Thence N 89°28'45" W, 700.00 feet along the South Boundary of NE 1/4, Section 4. Thence N 01°02'00" E, 30.00 feet to the INITIAL POINT.

Thence, N 89°28'45" W 264.00 feet.

Thence, N 01°02'00" E 330.00 feet.

Thence, S 89°28'45" E 264.00 feet.

Thence, S 01°02'00" W 330.00 feet.

Also described as Lot 1, Block 4, Breckenridge Farms Phase V Subdivision, according to the official plat thereof filed in the Twin Falls County Records Office.

EXHIBIT B  
FACILITIES LEASE

Construction Documents - Plans and Specifications are being prepared by the Architect. Once the Plans and Specifications are approved by Tenant and DLIS, then an amendment will be issued substituting the approved Plans and Specifications as a new Exhibit B.

AMENDMENT TO FACILITIES LEASE AGREEMENT  
EXECUTED APRIL 15, 1996

This Amendment #1 of Facilities Lease dated the 17th of December, 1996, by and between TFDOE, a limited liability company (hereinafter "Landlord"); and the STATE OF IDAHO, acting through the Idaho Department of Labor (hereinafter "Tenant"), addresses a change in the lease payments as detailed in Article III Rent, paragraph 3.02 and Schedule I for the facility known as the Twin Falls Job Service office located at 771 North College Road, Twin Falls, Idaho.

Date of Occupancy for said facility was November 22, 1996. Rentable space of the building is 12,375 square feet. Landlord has requested a pro-rated payment for forty (40) days at the stated annual rate of \$10.75 per square foot from date of occupancy through the end of December 31, 1996. Annual prepayment for the first year will then be made on January 1, 1997, for the calendar year ending December 31, 1997.

The parties hereby mutually agree that the initial term of the Facilities Lease Agreement referred to in Section 2.01 of the Lease shall commence on January 1, 1997, and all future rent payments will be made payable in advance by January 15<sup>th</sup> of each calendar year thereafter. The second five years of the initial ten-year term will begin January 1, 2002, at which time the rent will increase to \$11.50 per square foot per year in accordance with Schedule I of the Lease.


The Tenant shall deduct from the pro-rated payment and the annual payment 2-1/2% to fund the Facility Reserve Account and remit to the Idaho State Treasurer to hold in escrow, as stated in the Facilities Lease Agreement

Tenant improvements, not included in the original plans and specs, were requested during construction. Those tenant improvements include: cabinetry work with sinks in two conference rooms for \$4,839; window coverings throughout for \$2,270; and installation of CAT-5 wiring for data & phone equipment totaling \$13,941, for a total of \$21,050. This amount is to be paid separately at the same time the pro-rated payment is made.

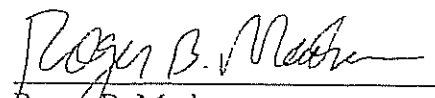
Landlord's employer identification number for TFDOE is 82-0491716.

All other terms and conditions remain the same.

FOR THE LANDLORD:

  
Steven W. Hosac  
*Managing Member*

FOR THE TENANT:

  
Roger B. Madsen